1950.

File No. O. Requisitioned Land (C. of P.)/50
Legal Department.
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Subject:—

Opinions under the Requisitioned Lands (Continuance of Powers) Act, 1947

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File No. O. Requisitioned Lands. (C. of P.)/50

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C O N T E N T S.

Legal Department File No. G.Requisitioned Land (C. of P.) /50.

Sr.No.	R.I./O.No.	Subject	Pages.
		Opinions under the Requisitioned Lands (Continuance of Powers) Act, 1947.	
1	O.No.751/17-1-50.	Sec.5. Re: Procedure to be followed while withdrawing the notice of requisition of lands as there is no provision in Sec. 5. for such withdrawal.	1-4
2	O.No.4079/24-3-50.	Sec.6. Question whether the owners of the land are entitled to any increase in their rate of compensation due to them in connection with the requisitioned lands and whether the matter can be referred to arbitration.	5-6
3	O.No.6198/6-5-50.	Question whether it would be legal to withdraw the requisition notice issued under Sec.5 and if so what procedure should be followed for the purpose especially in the matter of compensation.	7-8
4	O.No.10065/18-7-50.	S.S. 3,4,and 8 Question whether the premises can be considered to be under requisition.	9-10
	O.No.18463/30-12-50.	Question whether it would be legally correct to award compensation for the building,erections and improvements only or whether the compensation will have to be given for the whole property.	11-12
6	O.No.17429/8-12-50.	B'bay Land Requisition Act, 1948. S.S. 7(1) and 8 B. Re: Applicability of Sec.8B. of the B'bay Land Requisition Act,1948,to premises requisitioned under the Requisitioned Land (C. of P.) Act, 1947.	13-14.

K.S.R. 12/7 UR 1217

Office of the R.L.A.

Requisitioned Lands (Continuance of Powers) Act, 1947. Sec. 5.

It appears that certain lands at Versova, Bombay Suburban District which were requisitioned under rule 75A of the Defence of India Rules, were notified for acquisition under section 5 of the Requisitioned Land (Continuance of Powers) Act, 1947, in the Bombay Government Gazette dated 25th March 1949, with a view to preserve or secure the value of buildings and structures constructed on the said lands for the purposes of the Provincial Government. It was represented to the Bombay Housing Board for whom the lands were meant, by Mr. Noor Mahomed Abdulla the owner of S.No. 48, Hissa No.2(Part) so notified, to release the said S.No. from acquisition, and on the recommendations of the Board, Government decided not to proceed with its acquisition and directed the Collector, Bombay Suburban District immediately to denotify and release it to its owner as it was not required by the Housing Organisation. The Collector is of Opinion that there is no provision in section 5 of the Act for withdrawing the notice of acquisition and has sought Government's instructions as to the procedure he should follow in withdrawing the notice of acquisitio The Remembrancer of Legal Affairs is requested to advise.

2. The view taken by the Collector is correc The notice of acquisition under sub-section (1 of section 5 of the Requisitioned Land (Continuance of Powers) Act, 1947 of Survey No. 48 Hissa No. 2 (Part) was .....

published in the Bombay Government Gazette, dated 25th March 1949. The effect of such notice as sub-section (2) provides is that the requisitioned land shall on an from the beginning of the day on which the notice is so published vests absolutely in the appropriate Government free from all encumbrances and the period of requisition of such land shall end. With effect from 25th March 1949, therefore, the land has vested absolutely in the Provincial Government free from all encumbrances. There is no provision in the Act for denotifying such land. Consequently, mere denotifying it at this stage will not have the effect of divesting Government of the land already vested in it.

3. But there is nothing in the Act which restricts the rights of Government as owner of the land from dealing with it in any manner it likes, like any other owner or under the Bombay Land Revenue Code. The procedure to be followed in this case for the purpose would, be that a document should be taken from the owner of the Survey No. agreeing to forego compensation in return for a grant of the land to him and then a Sanad may be issued by Government in hsi favour. (cf.Advocate General's opinion dated 19th April 1942).

Id/- (P.M.L.)

Remembrancer of Legal Affairs.

U.R. to Labour Department No. 751.
Dated the 17th January 1950.

R.D.P.
6/7/56

S.C.

Office of the R.L.A.

The Requisitioned Land (Continuance of Powers) Act,1947.Section 6.

The view taken by R.D. at page 71 ante is correct. The compensation was fixed under the agreement. The request for revision of compensation on the ground that the prices of the staple foodgrains have since gone high, would not be a dispute referable to artitration under clause 6 of the agreement.

Id/-(P.M.L.)

Remembrancer of Legal Affairs.

U.R. to R.H.D.,No.4079,dated the 24th March 1950.

R.D.P.
6/7/56

S.C.

Office of the R.L.A.

Cancellation of notice under section 5 of the Requisitioned Land (Continuance of Powers) Act, 1947.

Sub-section (1) of section 5 of the Requisitioned Land (Continuance of Powers) Act, 1947 (XVII of 1947), provides that subject to the provisions of sub-section (3), the appropriate Government may at any time when any requisitioned land continues to be subject to requisition under section 3, acquire such land by publishing in the official gazette a notice to the effect that such Government has decided to acquire such land in pursuance of this section. Sub-section (2) provides that when a notice as aforesaid is published in the official gazettem, the requisitioned land shall on and from the beginning of the day on which the notice is so published vest absolutely in the appropriate Government free from all encumbrances and the period of requisition of such land shall end. It will be clear from these provisions that as soon as the Collector of N Nasik published a notice under sub-section (1) of section 5 the land vested in the Government absolutely. There is no provision in the Act for cancellation of the notice or withdrawal of acquisition which is complete. There is however no objection to regranting the land to the former owners on the original tenure in consideration of the full discharge of Government's liability to pay compensation under the Requisitioned Land (Continuance of Powers) Act (cf.R.L.A's No.1991,dated 29th January 1949).

Id/-(P.M.L.)
Remembrancer of Legal Affairs.

U.R. to R.D.,No.6198,dated the 6th May 1950.

R.D.P.
6/7/56

S.C.

Office of the R.L.A.

Requisitioned Land (Continuance of -- Powers) Act, 1947.

Sections 3,4 and8.

It is presumed that the premises were requisitioned under Rule 75-A of the Defence of India Rules. Since the order derequisitioning the property was not served on the owner, it is ineffective and the premises could be considered as being under requisition on 30th September 1946, on which date the Defence of India Act and Rules expired, whereafter they continued to be subject to requisition under section 3 of the Requisitioned Land Continuance of Powers Ordinance, 1946 and under section 3 of Requisitioned Land (Continuance of Powers) Act,1947. As the premises are still under requisition, they can be released, only after following the procedure laid down in section 4 of the Requisitioned Land (Continuance of Powers) Act, 1947.

If the Collector of Ahmedabad has been authorised under section 8 of the Act, he may be directed to derequisition the premises accordingly.

Id/- (P.M.L.)

Remembrancer of Legal Affairs.

U.R. to R.D.No.10065,dated the 18th July 1950.

R.D.P.
6/7/56

S.C.

Office of the R.L.A.

It is true that Government gave the lands to Shri Bharucha at a concessional rate; but that would be no valid ground for refusing him compensation for the aquisition of the lease-hold rights. He would, therefore, be entitled to proper compensation for the unexpired period of the lease in addition to compensation in respect of the buildings thereon.

Id/- (P.M.L.)

Remembrancer of Legal Affairs.

U.R. to R.D.No.18463, dated the 30th December 1950.

R.D.P.
6/7/56

S.C.

Legal Department.

Bombay Land Requisiti on Act, 1948. Section 7(i), 8 B Requisitioned Land (Continuance of Powers) Act, 1947.

The premises being requisitioned under the Requisitioned Land (Continuance of Powers) Act 1947, Section 8 B of the Bombay Land Requisition Act, 1948 will not be applicable unless the premises are continued under requisition under section 7(i) of the Bombay Land Requisition Act, 1948. Once this is done, Order in writing under sub-section (i) of Section 8 B can be issued to the occupants directing them to hand over possession of the premises to the officer authorised in this behalf by the State Government. Similarly the arrears of compensation (rent) due from these occupants can be recovered as arrears of land revenue under sub-section (2) of Section 8 B. If the occupants refuse to give possession to an officer authorised by the State Government in this behalf, he can under Section 11(i) of the Bombay Land Requisition Act, 1948 take or cause to be taken such steps and use or cause to be used such force as may in the opinion of such officer, be reasonably necessary for taking possession of such premises.

The papers may be passed on the Revenue Department (Accomodation) for taking action as suggested above.

Id/-

Solicitor to Government.

U.R. to Food Controller, No. 17429,
dated the 8th December 1950.

R.D.P.
6/7/56

S.C.